

**RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #31-09**

**Roxbury Township, Morris County**

WHEREAS, on December 23, 2008, Roxbury Township, Morris County, petitioned the Council on Affordable Housing (COAH) for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5, on March 10, 2009, the Township published notice of its petition in the *Daily Record*, which is a newspaper of general circulation within the county; and

WHEREAS, no objections to the plan were received by COAH during the 45-day objection period, which ended April 29, 2009; and

WHEREAS, although no objections were received during the 45-day objection period, COAH received one comment during this timeframe from Fair Share Housing Center (FSHC); which is summarized and addressed in the COAH Compliance Report, dated July 24, 2009, (attached as Exhibit A and incorporated by reference herein); and

WHEREAS, subsequent to the public comment period, Eileen Swan, Executive Director, Highlands Water Protection and Planning Council, submitted a memorandum reviewing the Roxbury's plan for consistency with the Highlands Regional Master Plan (RMP); and

WHEREAS, the memorandum is summarized and addressed in the COAH Compliance Report, dated July 24, 2009, (attached as Exhibit A and incorporated by reference herein); and

WHEREAS, during the plan review process, it was noted that Roxbury was not eligible to exclude market rate units included in an inclusionary development from the growth share projection for inclusionary developments addressing the growth share obligation, and consequently, the Township submitted an addendum or minor modification, dated July 21, 2009,

to its Fair Share Plan which reassigns two developments towards addressing the prior round obligation, which are now eligible for market rate exclusions and includes an additional affordable built unit at 11 Salmon Road for credit; and

WHEREAS, Roxbury Township's fair share plan addresses a total 1987-2018 affordable housing obligation of 585 units, consisting of a 35-unit rehabilitation share, 255-unit prior round obligation and a 295-unit projected growth share obligation pursuant to N.J.A.C. 5:97; and

WHEREAS, COAH staff has reviewed the Township's Housing Element and Fair Share Plan, which is incorporated by reference herein; and

WHEREAS, the Township proposes to address its 35-unit rehabilitation share with 35 rehabilitation credits; and

WHEREAS, Roxbury proposes to address its 255-unit prior round obligation with five prior cycle credits, 13 credits for 4 group homes; 63 credits for 63 at Willow Walk Lakeside Village, a age-restricted rental development; 42 credits and 42 bonuses for 42 units at River Park Village, a rental development for families; 35 credits for 21 bonuses for 35 units at Dellamo, a rental development for families that under construction; and 35 credits for 35 units at Renaissance, a rental development for families that is under construction; and

WHEREAS, Roxbury proposes to address a portion of its 295-unit projected growth share obligation with 15 credits for 7 group homes; 21 credits for 21 units at Willow Walk Lakeside Village, an age-restricted rental development; one credit for one family rental unit at Willow Walk Lakeside Village; 80 credits for 80 units at River Park Village, an age-restricted rental development for families; six credits for six completed units in a market to affordable program; 52 credits and 52 compliance bonuses for 52 age-restricted units approved in 2006 at the Muscarelle site; two credits for two family rental units at 52 Main Street; one credit for one for sale unit at 11 Salmon Road; and four credits for four family rental units at 133 Landing Road; and

WHEREAS, Roxbury Township proposes to address its remaining projected growth share obligation of 57 units with two credits for a proposed Municipally Sponsored Construction development known as Port Morris Fire House; 30 credits and 17 bonuses for a proposed Municipally Sponsored Construction development known as Kingtown; two credits for a proposed Municipally Sponsored Construction development known as Edith Road; six credits for a proposed Municipally Sponsored Construction development known as Department of Public Works; and 13 credits for a proposed market to affordable program; and

WHEREAS, pursuant to N.J.A.C. 5:97-3.2(a)4, Roxbury has provided an implementation schedule that demonstrates a realistic opportunity for the creation of units through four municipally-sponsored developments and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7; and

WHEREAS, Roxbury requested a waiver from N.J.A.C. 5:97-8.8(a)2, the 30 percent affordability assistance requirement, however, the waiver is not necessary since the Township's spending plan allocates a portion of its housing trust fund money to subsidize the creation of 26 rental units to be reserved for very-low income households in accordance with N.J.A.C. 5:97-8.8(a)2; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on July 24, 2009 COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) addressing the comments and memorandum to the Township's petition and recommending approval of Roxbury Township's petition for third round substantive certification; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received one comment during this timeframe which does not alter the compliance report.

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by Roxbury comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that the Township has submitted the necessary documentation for two credits for a proposed Municipally Sponsored Construction development known as Port Morris Fire House; 30 credits and 17 bonuses for a proposed Municipally Sponsored Construction development known as Kingtown; two credits for a proposed Municipally Sponsored Construction development known as Edith Road; and six credits for a proposed Municipally Sponsored Construction development known as Department of Public Works; and

BE IT FURTHER RESOLVED that although the Township did not provide all the necessary documentation for the market to affordable program, the Township may be eligible to receive credit when Roxbury submits the required information and/or the Township implements the program consistent with COAH's regulations; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to Roxbury Township; and

BE IT FURTHER RESOLVED that within 45 days after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), Roxbury Township shall adopt all implementing Fair Share Ordinances and the resolution of intent to bond or appropriate funds from general revenue; and

BE IT FURTHER RESOLVED that Roxbury must additionally submit COAH's Administrative Agent Designation Form identifying the administrative agent for existing affordable units and the affirmative marketing plan within 45 days of the grant of substantive certification; and

BE IT FURTHER RESOLVED if the Township fails to timely adopt its Fair Share Ordinances, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Roxbury shall submit certified copies of the adopted ordinances to COAH within seven days of adoption; and

BE IT FURTHER RESOLVED that Roxbury shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the Township's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Roxbury's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Roxbury and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, the Township is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4 or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, then the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, Roxbury shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Roxbury's substantive certification shall remain in effect until December 23, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Roxbury Township to provide for the realistic opportunity of its fair share of low- and moderate-income housing and which the Township fails to remedy, may render this certification null and void.

I hereby certify that this resolution was  
duly adopted by the Council on Affordable  
Housing at its public meeting on August 12, 2009.

A handwritten signature in cursive script, reading "René Reiss". The signature is written in black ink and is positioned above the printed name and title.

René Reiss, Secretary  
Council on Affordable Housing



***Council on Affordable Housing  
Compliance Report  
July 24, 2009***



**Municipality:** Roxbury Township  
**County:** Morris County

**COAH Region:** 2  
**Planning Area:** 1,2 and 5  
**Special Resource Area:** Highlands

**Housing Element and Fair Share Plan Adopted:** November 12, 2008  
**Petition for 3<sup>rd</sup> Round Substantive Certification:** December 23, 2008  
**Completeness Determination:** March 3, 2009  
**Date of Publication:** March 10, 2009 (*Daily Record*)

**Objections Received:** No

**Petition Includes:**

**VLA:** No  
**GPA:** No  
**Waiver:** Yes      **Section:** N.J.A.C. 5:97-8.8

**Date of Site Visit:** August 3, 2009

**History of Approvals:**

	<b>COAH</b>	<b>JOC</b>	<b>N/A</b>
<b>First Round:</b>			X
<b>Second Round:</b>	11/5/1997		
<b>Extended Certification:</b>	3/9/2005		

**Plan Preparer:** Charles McGroarty, PP AICP, Banisch and Associates

**Municipal Housing Liaison:** Russell Stern, PP AICP, Township Planner

**Recommendation:** Grant Substantive Certification

***SUMMARY OF FAIR SHARE OBLIGATION***

Rehabilitation Share	35
Prior Round Obligation	255
Projected Growth Share Obligation (Net)	295

***ACTUAL GROWTH and GROWTH SHARE through September, 2008<sup>1</sup>***

<b>Res Units (#)</b>	<b>Actual Res Growth Share</b>	<b>Jobs (#)</b>	<b>Actual Non-Res Growth Share</b>	<b>Actual TOTAL Growth Share</b>
131	26 units	1,242	78 units	104 units

***COMPLIANCE PLAN SUMMARY***

<b>Obligation</b>	<b>Credit/ Mechanism Type</b>	<b># Units Completed</b>	<b># Units Proposed</b>	<b>TOTAL</b>
<b>Rehabilitation: 35 units</b>				
<b>Credits</b>	Post-April 1, 2000	35		35
<b>Rehabilitation Subtotal</b>				<b>35</b>
<b>NEW CONSTRUCTION:</b>				
<b>Prior Round: 255 units</b>				
<b>Credits</b>	Prior Cycle	5 bedrooms		5
	Post-1986	188		188
<b>Prior Round Bonus(es)</b>	Rental	63		63
<b>Prior Round Subtotal</b>				<b>256</b>
<b>Surplus</b>				<b>1</b>
<b>Growth Share: 295 units</b>				
<b>Credits</b>	Post-1986	182		182

<sup>1</sup> This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

<b>Proposed Mechanism(s)</b>	Municipally Sponsored- Port Morris Fire House		2	2
	Municipally Sponsored- Kingtown		30	30
	Municipally Sponsored- Edith Road		2	2
	Municipally Sponsored- Department of Public Works site		6	6
	Market to Affordable		13	0
<b>Growth Share Bonus(es)</b>	Family Rentals	21		21
	Compliance	52		52
<b>Growth Share Subtotal</b>				<b>295</b>
<b>Surplus/Shortfall</b>				<b>0</b>

## I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Roxbury's Housing Element includes sufficient information

regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's affordable housing fair share obligation, which is the sum of the rehabilitation share, the prior round obligation and the growth share.

The Township submitted a minor modification to its Fair Share Plan on July 21, 2009, which reconfigures the mechanisms included in its plan and includes an additional unit for credit for an affordable unit at 11 Salmon Road (Addendum attached as Appendix A).

Roxbury's Fair Share Plan, as modified by the July 21<sup>st</sup> addendum, and the supporting documentation incorporated by reference therein, address the requirements of N.J.A.C. 5:97-3.1 as follows:

**A. Rehabilitation Share**

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Roxbury has a rehabilitation share of 35 units.

**B. Prior Round Obligation**

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Roxbury has a prior round obligation of 255.

**C. Projected Growth Share**

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Roxbury has a residential projection of 811 units and a non-residential projection of 2,986 jobs, which results in an initial projected growth share obligation of

348.83 affordable units. However, after subtracting the allowable exclusions itemized in Worksheet A (attached as Appendix B), Roxbury's residential projection is reduced to 538 units. Therefore, Roxbury's total projected growth share for the period 1999-2018 is 295 affordable units consisting of a 107.60-unit projected residential growth share and a 186.63-unit projected non-residential growth share.<sup>2</sup>

#### **SUMMARY OF FAIR SHARE OBLIGATION**

Rehabilitation Share	35
Prior Round Obligation	255
Projected Growth Share Obligation (Net)	295

## **II. FAIR SHARE PLAN**

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

Roxbury's Fair Share Plan, and the supporting documentation incorporated by reference therein, address the requirements of N.J.A.C. 5:97-3.1 as follows:

### **A. Plan to Address Rehabilitation Share**

#### **Rehabilitation Share Credits**

Roxbury's plan is requesting credit for 34 units rehabilitated subsequent to April 1, 2000. The Township indicates that the units were rehabilitated under the auspices of

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<sup>2</sup> Pursuant to N.J.A.C. 5:97-2.2(d), Roxbury's residential projection of 538 is divided by 5 to yield 107.60 units and the non-residential projection of 2,986 jobs is divided by 16 to yield 186.63 units. Roxbury's total projected growth share is therefore 294 units (res 107.60 + non-res 186.63).

the Morris County rehabilitation program. Subsequently, on June 12, 2009, COAH received a fax from the Morris County Department of Community Development reporting on the number of units rehabilitated for the period beginning April 1, 2000 through June 12, 2009. Based on the report, Roxbury would be eligible for 37 credits. Although the additional credits exceed what Roxbury is requesting, the Township is eligible for 35 rehabilitation credits since the Township's plan indicates that it would continue to participate in the County program to address the balance of its rehabilitation share. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

**Rehabilitation Credits**

<b>Rehabilitation Program</b>	<b># Credits</b>
Morris County Rehab Program	35
<b>TOTAL</b>	<b>35</b>

**B. Plan to Address Prior Round Obligation**

**Prior Round Obligation Credits**

Roxbury is addressing the prior round obligation with five prior cycle credits, 188 post-1986 credits and 63 bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

**Prior Cycle Credits**

<b>Project/Development Name</b>	<b>Year Built</b>	<b>Type of Affordable Unit</b>	<b># Units/ Bedrooms</b>
152 Mountain Lane	1982	SSN <sup>3</sup>	5 bedrooms
<b>TOTALS</b>			<b>5</b>

<sup>3</sup> SSN means Supportive and Special Needs Housing

**Post-1986 Credits**

<b>Project/Development Name</b>	<b>Year Built or Approved</b>	<b>Type of Affordable Unit</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
184 Drake Lane	1999	SSN	3			3
20 Toby Drive	1997	SSN	2			2
1 Kennedy Drive	2000	SSN	4			4
102 S. 1 <sup>st</sup> Ave	2005	SSN	4			4
Willow Walk Lakeside Village	1996	Age-Restricted Rentals	63			63
River Park Village	1997	Family Rentals	42	Family	42	84
Dellamo	Received approval in 2001 <sup>4</sup>	Family Rentals	35		21	56
Willow Walk Renaissance	Received approval in 2002 <sup>5</sup>	Family Rentals	35			35
<b>TOTALS</b>			<b>188</b>		<b>63</b>	<b>251</b>

**Approved But Not Constructed**

**Dellamo Inclusionary Development**

Roxbury's third round plan includes zoning on Block 6101, Lots 3 and 4 (old Block 45, Lots 13.1 and 13.2) consisting of 5.68 acres that was to produce 35 affordable rental apartment units. This development resulted from a 1997 Consent Order for Final Judgment Incorporating Stipulation of Settlement and Transfer to COAH by the Honorable Reginald Stanton, A.J.S.C. The development was also included in the Township's second round certified plan towards addressing the Township's second round

<sup>4</sup> Dellamo is approved currently under construction.

<sup>5</sup> Renaissance is approved currently under construction.

obligation. On June 20, 2001, the Dellamo tract received preliminary major site plan approval from the Planning Board for the development of the units. On January 2, 2004 Dellamo submitted an application to the Township Construction Department for building permits. Township indicates the development is under construction. **[35 affordable family rental units]**

Renaissance (Willow Walk) Inclusionary Development

Roxbury's third round plan includes zoning at Block 6201, Lot 5 (old Block 45, Lot 18.1) consisting of 6.34 acres that was to produce 35 affordable rental apartment units. This development resulted from 1997 Consent Order for Final Judgment Incorporating Stipulation of Settlement and Transfer to COAH by the Honorable Reginald Stanton, A.J.S.C. The development was also included in the Township's second round certified plan towards addressing the Township's second round obligation. On January 9, 2002, the Renaissance tract received preliminary major site plan approval from the Planning Board for the development of the units. Township indicates the development is under construction.

**[35 affordable rental units]**

Prior Round Obligation Parameters

Roxbury has satisfied the applicable Prior Round parameters as follows:

**Prior Round Rental Obligation:<sup>6</sup> 63 Units**

Development/Project Name	Type of Affordable Unit	# Units
184 Drake Lane	SSN	3
20 Toby Drive	SSN	2
1 Kennedy Drive	SSN	4
102 S. 1 <sup>st</sup> Avenue	SSN	4

<sup>6</sup> Rental Obligation: 25 percent (prior round obligation-prior cycle credits) or  $.25(256-5) = 62.75$  rounded to 63. N.J.A.C. 5:97-3.10(b)<sup>1</sup>

Willow Walk Lakeside	Age-Restricted	63
River Park Village	Family	42
Dellamo	Family	35
Willow Walk Renaissance	Family	35
<b>TOTAL</b>		<b>188</b>

**Prior Round Age-Restricted Maximum<sup>7</sup> : 63 Units**

Development/Project Name	Type of Affordable Unit	# Units
Willow Walk Lakeside	Rentals	63
<b>TOTAL</b>		<b>63</b>

**Prior Round Rental Bonus Maximum<sup>8</sup> : 63 Units**

Development/Project Name	Type of Bonus	# Bonuses
River Park Village	Family Rental	42
Dellamo	Family Rental	21
<b>TOTAL</b>		<b>63</b>

<sup>7</sup> Age-Restricted Maximum: 25 (Prior Round Obligation + Rehabilitation Share – Prior Cycle Credits – Rehabilitation Credits) or .25(251)= 63

<sup>8</sup> No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation N.J.A.C. 5:97-3.5

**C. Plan to Address Projected Growth Share**

**Growth Share Obligation Credits**

Roxbury is addressing 234 units of the projected growth share obligation with 182 units of credit and 52 compliance bonuses. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

**Post-1986 Credits**

<b>Project/Development Name</b>	<b>Year Built or Approved</b>	<b>Type of Affordable Unit</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
54 Main Street	1989	Family Rental	2			2
87 Drake Lane	1992	SSN	2			2
200 Drake Lane	1992	SSN	2			2
128 Drake Lane	1992	SSN	3			3
170 Drake Lane	1992	SSN	3			3
118 Drake Lane	1995	SSN	2			2
134 Drake Lane	1996	SSN	1			1
Willow Walk-Lakeside Village	1996	Age-restricted rental	21			21
Willow Walk-Lakeside Village	1996	Family rental	1			1
River Park Villages	1997	Family rental	80			80
Market to Affordable	Various	Family ownership	6			6

Muscarelle <sup>9</sup>	Received approval in 2006	Age-restricted	52	Compliance	52	104
52 Main Street	2007	Family rental	2			2
11 Salmon Road <sup>10</sup>	2008	Family ownership	1			1
133 Landing Road	2009	Family rental	4		4	8
<b>TOTALS</b>			<b>182</b>		<b>56</b>	<b>238</b>

### **Approved But Not Constructed**

#### **Muscarelle**

The Township's Fair Share Plan proposes 52 proposed affordable age-restricted units at Block 9302, Lot 1 and Block 9401, Lot 13 located in the R-5 Multi-Family Residence District. The site is approximately 56.9 acres, includes 260 units of age-restricted residential development, and is located in PA 5 and in the Highlands Planning Area. The site was the result of litigation entitled Roxbury 80, LLC. v. Township of Roxbury., et al. (Dkt: No. MRS-L-1782-01 P.W.), which resulted in a settlement agreement dated April 6, 2005. Roxbury 80, LLC, applicant for Block 9302, Lot 1 and Block 9401, Lot 13 received preliminary site plan approval from the Planning Board of Roxbury Township on September 20, 2006. Wetlands, wetland transition areas, and steep slopes in excess of 15 percent are situated on the site. The property is not listed on the State or National Register of Historic Places. The Township has provided information pertaining to the site's availability, incorporated by reference herein, and demonstrated that the site may be developed for low and moderate income housing in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site. The Township also included the planning board resolution with the petition which

<sup>9</sup> Muscarelle is approved and not built.

<sup>10</sup> Included in Addendum dated July 21, 2009.

states that “the property is located within sewer and water service areas.” The development will be served by public sanitary sewer by the Musconetcong Valley Sewerage Authority. In addition, Roxbury has provided documentation regarding Township approvals, county planning board approvals and NJDEP land use approvals. **[52 age-restricted units and 52 compliance bonuses]**

### **Proposed Affordable Housing Mechanisms**

Roxbury proposes to address the remaining 53-unit growth share obligation through the following mechanisms:

#### ***Municipally Sponsored Construction-Port Morris Fire House***

Roxbury will utilize a municipally sponsored 100 percent development to address two units of its projected Growth Share Obligation. Roxbury Township proposes the construction of two affordable rental units. The Township owns a .3-acre parcel at 580 Main Street, block 10502, lot 5. The entire site is located in Planning Area 2 in accordance with the State Development and Redevelopment Plan (SDRP) and the Highlands Planning Area as established by the Highlands Water Protection and Planning Act (HWPPA).

The Township intends to demolish the existing building and construct a two-family dwelling. The Township indicates that the site is surrounded by single family detached dwellings, and that there are no steep slopes on the site, with no streams on or adjacent to the site. In addition, there are no known critical environmental or historic or architecturally important sites or known contaminants on the site. As a result, there is approximately .3 acre available for the development of the two proposed affordable rental units. In addition, the Township proposes to enter into a partnership with a private or nonprofit developer to construct two rental units.

Pursuant to N.J.A.C. 5:97-3.2(a)4, Roxbury has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The Township has provided the documentation required pursuant to N.J.A.C. 5:97-6.7(b)1-3,

demonstrating site control, site suitability and a schedule for construction to begin in accordance with the municipality's implementation schedule. The Township's mechanism checklist form includes a timetable for each step of the development process in accordance with N.J.A.C. 5:97-6.7(d)1, with certificates of occupancy being issued in December 2015 and as such, supporting documentation is required to be submitted to COAH two years before construction begins, in March 2013.

The Township owns the site and will provide \$350,000 in housing trust fund money for site preparation to facilitate the construction of the proposed two rental units to address a portion of Roxbury's projected growth share.

Roxbury's Housing Element and Fair Share Plan includes a draft resolution to either bond or appropriate funds from general revenue, in the event the Township's housing trust fund does not have sufficient funds to finance the rental units. The draft resolution must be adopted within 45 days of substantive certification. **[Two units]**

#### ***Municipally Sponsored Construction-Edith Road***

Roxbury will utilize a municipally sponsored 100 percent development to address two units of its projected Growth Share Obligation. Roxbury Township proposes the construction of two affordable units. The Township owns block 11802, lot 1 located at 532 Mansel Drive, which is a 7,500 square foot parcel that is located in PA 2 and in the Highlands Planning Area as established by the Highlands Water Protection and Planning Act (HWPPA).

The Township intends to construct a two-family dwelling. The Township indicates that the site is surrounded by single family detached dwellings, and that there are no steep slopes on the site, with no streams on or adjacent to the site. In addition, there are no known critical environmental or historic or architecturally important sites or known contaminants on the site. In addition, the Township proposes to enter into a partnership with a private or nonprofit developer to construct two units.

The Township owns the site and will provide \$80,000 in housing trust fund money towards the construction of the proposed two rental units to address a portion of Roxbury's projected growth share.

Pursuant to N.J.A.C. 5:97-3.2(a)4, Roxbury has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The Township has provided the documentation required pursuant to N.J.A.C. 5:97-6.7(b)1-3, demonstrating site control, site suitability and a schedule for construction to begin in accordance with the municipality's implementation schedule. The Township's mechanism checklist form includes a timetable for each step of the development process in accordance with N.J.A.C. 5:97-6.7(d)1, with certificates of occupancy being issued in December 2017 and as such, supporting documentation is required to be submitted to COAH two years before construction begins, in March 2015.

Roxbury's Housing Element and Fair Share Plan includes a draft resolution to either bond or appropriate funds from general revenue, in the event the Township's housing trust fund does not have sufficient funds to finance the rental units. The draft resolution must be adopted within 45 days of substantive certification. **[Two units]**

#### ***Municipally Sponsored Construction-Kingtown***

Roxbury will utilize a municipally sponsored 100 percent development to address 30 units of its projected Growth Share Obligation. Roxbury Township proposes the construction of 30 affordable units. The Township owns block 9302, lot 4, which is an 18.4-acre parcel that is located in PA 5 and in the Highlands Planning Area as established by the Highlands Water Protection and Planning Act (HWPPA).

The Township intends to construct 30 affordable rental units, of which 26 will be reserved for households earning no more than 30 percent median income. The Township indicates that the site is surrounded by single family detached dwellings, and that there are no steep slopes on the site, with no streams on or adjacent to the site. In addition, there are no known critical environmental or historic or architecturally important sites or known contaminants on the site. The Township indicates that the is within the Township's established sanitary sewer service area for the Ajax treatment plant and that water is available from the Roxbury Water Company. In addition, the Township proposes to enter into a partnership with a private or nonprofit developer to construct 30 units.

The Township owns the site and will provide \$2,553,683 in housing trust fund money for site preparation to facilitate the construction of the proposed 30 units to address a portion of Roxbury's projected growth share.

Pursuant to N.J.A.C. 5:97-3.2(a)4, Roxbury has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The Township has provided the documentation required pursuant to N.J.A.C. 5:97-6.7(b)1-3, demonstrating site control, site suitability and a schedule for construction to begin in accordance with the municipality's implementation schedule. The Township's mechanism checklist form includes a timetable for each step of the development process in accordance with N.J.A.C. 5:97-6.7(d)1, with certificates of occupancy being issued in December 2017 and as such, supporting documentation is required to be submitted to COAH two years before construction begins, in March 2015.

Roxbury's Housing Element and Fair Share Plan includes a draft resolution to either bond or appropriate funds from general revenue, in the event the Township's housing trust fund does not have sufficient funds to finance the rental units. The draft resolution must be adopted within 45 days of substantive certification. **[30 units and 17 rental bonuses]**

#### ***Municipally Sponsored Construction-Department of Public Works***

Roxbury will utilize a municipally sponsored 100 percent development to address six units of its projected Growth Share Obligation. Roxbury Township proposes the construction of six affordable rental units. The Township owns block 5203, lot 57, which is a 1.12-acre parcel that is located in PA 2 and in the Highlands Planning Area as established by the Highlands Water Protection and Planning Act (HWPPA).

The Township indicates that the site is surrounded by single family detached dwellings, and that there are no steep slopes on the site, with no streams on or adjacent to the site. In addition, there are no known critical environmental or historic or architecturally important sites in proximity to the site. The Township indicates that the site will need to be evaluated to determine if any contamination exists. The Township anticipates that the entire 1.12 acre parcel is suitable for development. The Township

intends to demolish the existing structures and relocate the facility in order to make the site available for the construction of one or more buildings to provide up to six family rental units.

The Township owns the site and will provide \$500,000 in housing trust fund money for site preparation to facilitate the construction of the proposed six affordable rental units to address a portion of Roxbury's projected growth share.

Pursuant to N.J.A.C. 5:97-3.2(a)4, Roxbury has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7. The Township has provided the documentation required pursuant to N.J.A.C. 5:97-6.7(b)1-3, demonstrating site control, site suitability and a schedule for construction to begin in accordance with the municipality's implementation schedule. The Township's mechanism checklist form includes a timetable for each step of the development process in accordance with N.J.A.C. 5:97-6.7(d)1, with certificates of occupancy being issued in December 2017 and as such, supporting documentation is required to be submitted to COAH two years before construction begins, in March 2015.

Roxbury's Housing Element and Fair Share Plan includes a draft resolution to either bond or appropriate funds from general revenue, in the event the Township's housing trust fund does not have sufficient funds to finance the rental units. The draft resolution must be adopted within 45 days of substantive certification. **[Six units]**

### **Market to Affordable**

Roxbury proposes to utilize a Market to Affordable program to address 13 units of its projected growth share obligation, which is less than 10 percent of the fair share obligation pursuant to N.J.A.C. 5:97-6.9(b)4. In accordance with N.J.A.C. 5:97-6.9(b)3, the Township proposes to provide approximately \$650,000 or \$50,000 per unit to write-down the cost of up to 13 market units and offer them in sound condition at affordable prices to moderate income households.

N.J.A.C. 5:97-6.9(d) requires that the municipality demonstrate that there are sufficient for-sale market units within the municipality for a viable program. Roxbury has submitted documentation, which lists unrestricted, non-affordable properties in

Roxbury Township in selected price ranges. Several homes in the Township fall within the \$125,000 to \$250,000 range that would be eligible for the market to affordable program.

Although Roxbury has been successful in creating six market to affordable units, Roxbury Township has not provided information designating an agent to administer the program, nor has it provided an operating manual or marketing plan for the market to affordable program, and therefore, COAH cannot grant advance credit for this mechanism for addressing the Township's affordable housing obligation. However, the Township may be eligible to receive credit when Roxbury submits the required information and/or the Township implements the program consistent with COAH's regulations. **[Zero credits at this time]**

**Proposed Growth Share Affordable Housing Mechanisms**

<b>Type/Name of Affordable Housing Mechanism</b>	<b>Type of Affordable Unit</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
Municipally Sponsored Construction- Port Morris Fire House	Family Rental	2			2
Municipally Sponsored Construction- Kingtown	Family Rental	30	rental	17	47
Municipally Sponsored Construction- Edith Road	Family Ownership	2			2
Municipally Sponsored Construction- Department of Public Works	Family Rental	6			6
Market to Affordable Program	Family For-Sale	13			0
<b>TOTALS</b>		<b>53</b>		<b>17</b>	<b>57</b>

**Growth Share Parameters**

Roxbury has satisfied the applicable Growth Share parameters as follows:

**Growth Share Rental Obligation:<sup>11</sup> 74 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
54 Main Street	Family Rental	2
87 Drake Lane	SSN	2
200 Drake Lane	SSN	2
128 Drake Lane	SSN	3
170 Drake Lane	SSN	3
118 Drake Lane	SSN	2
134 Drake Lane	SSN	1
Willow Walk-Lakeside Village	Age-restricted rental	21
Willow Walk-Lakeside Village	Family rental	1
River Park Villages	Family rental	80
52 Main Street	Family rental	2
133 Landing Road*	Family rental	4
Municipally Sponsored Construction- Port Morris Fire House	Family Rental	2
Municipally Sponsored Construction- Kingtown*	Family Rental	30
Municipally Sponsored Construction- Department of	Family Rental	6

<sup>11</sup> Projected Growth Share Rental Obligation:  $.25(\text{Projected Growth Share})$  or  $.25(295) = 73.75$  or 74 units  
N.J.A.C. 5:97-3.10(b)3

Public Works		
<b>TOTAL</b>		<b>161</b>

\*Requesting rental bonuses.

**Growth Share Family Rental Requirement<sup>12</sup> : 37 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
River Park Villages	Family rental	80
52 Main Street	Family rental	2
133 Landing Road*	Family rental	4
Municipally Sponsored Construction- Port Morris Fire House	Family Rental	2
Municipally Sponsored Construction- Kingtown*	Family Rental	30
Municipally Sponsored Construction- Department of Public Works	Family Rental	6
<b>TOTAL</b>		<b>124</b>

\*Requesting rental bonuses.

**Growth Share Minimum Family Requirement<sup>13</sup> : 111 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
54 Main Street	Family Rental	2
Willow Walk-Lakeside Village	Family rental	1
River Park Villages	Family rental	80

<sup>12</sup> Projected Growth Share Family Rental Requirement: .5(Projected Growth Share Rental Requirement) or .5(74)= 37 units N.J.A.C. 5:97-3.4(b)

<sup>13</sup> Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(295-73)= 111 units N.J.A.C. 5:97-3.9

Market to Affordable (Completed)	Family ownership	6
52 Main Street	Family rental	2
133 Landing Road	Family rental	4
11 Salmon Road	Family ownership	1
Municipally Sponsored Construction- Port Morris Fire House	Family Rental	2
Municipally Sponsored Construction- Edith Road	Family ownership	2
Municipally Sponsored Construction- Kingtown	Family Rental	30
Municipally Sponsored Construction- Department of Public Works	Family Rental	6
Market to Affordable Program- (Proposed)	Family ownership	0
<b>TOTAL</b>		<b>136</b>

**Very Low Income Minimum Requirement<sup>14</sup> : 22 Units**

<b>Development/Project Name</b>	<b>Type of Affordable Unit</b>	<b># Units</b>
Kingtown	Family rentals	26
<b>TOTAL</b>		<b>26</b>

<sup>14</sup> Growth Share Very Low Income Requirement: .13(Projected Growth Share (Net) – pre July 18, 2008 credits) or .13(295-125)= 22 units N.J.S.A. 52:27D-329.1

**Age-Restricted Maximum<sup>15</sup> : 73 Units**

Development/Project Name	Type of Affordable Unit	# Units
Muscarelle	Ownership	52
Willow Walk-Lakeside Village	Rental	21
<b>TOTAL</b>		<b>73</b>

**Bonus Maximum<sup>16</sup>: 73 Bonuses**

Development/Project Name	Type of Bonus	# Bonuses
Muscarelle <sup>17</sup>	Compliance	52
133 Landing Road	Family rentals	4
Kingtown	Family rentals	17
<b>TOTAL</b>		<b>73</b>

**Actual Growth Share Obligation**

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Roxbury issued certificates of occupancy for 131 housing units and for the non-residential square footage

<sup>15</sup> Projected Growth Share Age Restricted Maximum:  $.25(\text{Projected Growth Share})$  or  $.25(295) = 73.75$  or 73 units N.J.A.C. 5:97-3.11(c)3

<sup>16</sup> Projected Bonus Maximum:  $.25(\text{Projected Growth Share})$  or  $.25(295) = 73$  units N.J.A.C. 5:97-3.20

<sup>17</sup> Muscarelle is approved and not built.

equivalent of 1,242 jobs, yielding an actual growth share obligation through September 30, 2008, of 104 affordable units.<sup>18</sup>

**D. Summary of Plan to Address Fair Share Obligation**

**REHABILITATION SHARE SUMMARY**

**Rehabilitation Share: 35 Units**

Program Name	# Units
Morris County Rehab Program- Credits	35
<b>TOTAL</b>	<b>35</b>

**PRIOR ROUND SUMMARY**

**Prior Round Obligation: 255 Units**

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
<b>Prior Cycle Credits</b>	152 Mountain Lane (SSN)	5			5
<b>Post-1986 Credits</b>	184 Drake Lane (SSN)	3			3
	20 Toby (SSN)	2			2
	1 Kennedy Drive (SSN)	4			4
	102 S. 1 <sup>st</sup> Avenue (SSN)	4			4
	Willow Walk Lakeside Village	63			63

<sup>18</sup> The number of residential COs (131) is initially divided by 5 to yield 26 units and the number of jobs (1,242) is initially divided by 16 to yield 78 units. Roxbury's total actual growth share is therefore 104 units (res26 + non-res 78). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

	River Park Village	42		42	84
	Dellamo	35		21	56
	Renaissance	35			35
<b>Subtotal</b>		<b>193</b>		<b>63</b>	
<b>TOTAL</b>					<b>256</b>
<b>Surplus</b>					<b>1</b>

**GROWTH SHARE SUMMARY**  
**Projected Growth Share Obligation: # Units**

	<b>Name of Mechanism</b>	<b># Units/Bedrooms</b>	<b>Bonus Type</b>	<b># Bonuses</b>	<b>Total Units/Bedrooms + Bonuses</b>
<b>Post-1986 Credits</b>	54 Main Street (SSN)	2			2
	87 Drake Lane (SSN)	2			2
	200 Drake Lane (SSN)	2			2
	128 Drake Lane (SSN)	3			3
	170 Drake Lane (SSN)	3			3
	118 Drake Lane (SSN)	2			2
	134 Drake Lane (SSN)	1			1
	Willow Walk-Lakeside Village	21			21

	Willow Walk Lakeside Village	1			1
	River Park Villages	80			80
	Market to Affordable	6			6
	Muscarelle	52	Compliance	52	104
	52 Main Street	2			2
	11 Salmon Road	1			1
	133 Landing Road	4	Family rental	4	8
<b>Subtotal</b>		<b>182</b>		<b>56</b>	<b>238</b>
<b>Proposed Mechanisms</b>	Municipally Sponsored Construction- Port Morris Fire House	2			2
	Municipally Sponsored Construction- Kingtown	30	Family rental	17	47
	Municipally Sponsored Construction- Edith Road	2			2
	Municipally Sponsored Construction- Department of Public Works	6			6
	Market to Affordable	13			0

	Program				
	<b>Subtotal</b>	<b>53</b>		<b>17</b>	<b>57</b>
<b>TOTAL</b>					<b>295</b>
<b>Surplus/Shortfall</b>					<b>0</b>

### III. FAIR SHARE DOCUMENT REVIEW

#### A. Development Fee Ordinance

Roxbury submitted a draft amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance will be reviewed by COAH in a separate report.

#### B. Third Round Spending Plan

A revised third round spending plan, which included a waiver from the 30 percent affordability assistance requirement was submitted by Roxbury with the Township's third round petition for COAH's review and approval. However, the waiver is not necessary since the Township's spending plan allocates a portion of its housing trust fund money to subsidize the creation of 26 rental units to be reserved for very-low income households in accordance with N.J.A.C. 5:97-8.8(a)2. The spending plan will be reviewed by COAH in a separate report.

#### C. Affordable Housing Ordinance/Affordable Housing Administration

Roxbury has submitted a revised draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has also been amended to comply with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45

days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison and a resolution appointing a municipal housing liaison were adopted by the Roxbury on September 8, 2006. On November 27, 2007, Roxbury Township appointed Russell Stern to the position of Municipal Housing Liaison by resolution.

Roxbury indicates that it is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within the Roxbury and must submit documentation identifying an experienced administrative entity for all existing units for that purpose by contract, agreement or letter within 45 days of the grant of substantive certification. Roxbury must designate an administrative entity and submit a written operating manual for administering affordable units within the Township in accordance with N.J.A.C. 5:80-26.14(b), in accordance with N.J.A.C. 5:97-6.4(k) and N.J.A.C. 5:97-6.7(e).

#### **D. Affirmative Marketing Plan**

Roxbury has submitted an affirmative marketing plan that comports with the requirements of the UHAC and ensures the units in the Township's 1987-2018 Fair Share Plan and] all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the Township within 45 days of COAH's grant of substantive certification and submitted to COAH.

#### **IV. MONITORING**

Roxbury must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the municipality's actual growth pursuant to N.J.A.C. 5:97-2.5. As indicated above, credits for built units will be validated and verified by COAH staff during monitoring prior to the first biennial plan evaluation. It should be noted that credits for affordable housing programs and/or affordable units must

be in compliance with N.J.A.C. 5:97-4. If the units are determined not to be eligible for credit, COAH will notify Roxbury in writing and the Township may be directed to amend its certified plan to address the shortfall.

Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Roxbury's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Roxbury and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, or the Township is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

Roxbury's Fair Share Plan provides for 310 affordable units to meet its projected growth share obligation of 295 units. Pursuant to N.J.A.C. 5:97-2.5, Roxbury is required to provide affordable housing in direct proportion to the growth share obligation generated by the actual growth, which shall be monitored at its biennial review. At that time, Roxbury shall demonstrate that it has provided sufficient affordable units to keep pace with its actual growth.

## **V. COMMENTS**

During the 45-day comment/objection period, a comment dated April 23, 2009, was received from Fair Share Housing Center (FSHC). FSHC questions the Township's request for 70 exclusions for the Wellfleet Villages project. Specifically, since the project is not identifiable in the Township's plan, the Township should "clarify what this project is and the basis for the exclusions claimed." In addition, FSHC claims that the

Township has not demonstrated that the credits requested for River Park Villages or Willow Walk Lakeside Villages have controls in place through 2018. Lastly, FSHC is concerned that the Kingtown development included in the Township's plan for a total of 30 affordable rental units, of which 26 will be set aside for households earning no more than 30 percent of median income is "realistic or desirable" since 87 percent of the development will be reserved for very low income households. Also, that they did not see any financing documentation for constructing and sustaining the development and suggests that the Township be required to address some of the very low income units through the other proposed mechanisms.

As aforementioned, the Township has submitted an addendum to the December 23, 2008 petition and a copy of the January 2, 1997 Consent Order for Final Judgment Incorporating Stipulation of Settlement and Transfer to COAH by the Honorable Reginald Stanton, A.J.S.C., clarifying that the 70 exclusions that are being requested are associated with the Wellfleet Villages project which resulted from said settlement. The settlement allowed the construction of a total of 190 single family fee simple market rate units on a property known as Shippenport and up to 42 market rate units and required 35 affordable rental units at Dellamo, which continue to be included in the Township's plan to address the prior round obligation. With regard to the credits addressing the growth share obligation, COAH staff has received information from HMFA staff indicating that both Lakeside Village and River Park Village are Tax Credit projects that have 30 year compliance period for low-income occupancy. Although FSHC has concerns with the Kingtown project, the Township provided the information required in accordance with N.J.A.C. 5:97-6.7.

In addition, on July 17, 2009, COAH received a memorandum from Eileen Swan, Executive Director, Highlands Water Protection and Planning Council commenting on July 17, 2009. The memorandum points out that Roxbury has not submitted a Notice of Intent to the Highlands Council for the Preservation Area and/or the Planning Area, and that since Roxbury lies partially in the Highlands Planning and Preservation Areas that conformance with the Highlands Regional Master Plan (RMP) is required for the Preservation area. Also, that Roxbury's nonconformance to the RMP, with respect to the Preservation area, would

jeopardize wastewater service area designations in the Township pursuant to NJDEP rules at N.J.A.C. 5:15-8 “preventing the development of any site proposed to be serviced by public wastewater.” The memorandum notes that the Edith Road site, Port Morris Fire House site and DPW site proposed in the Township’s plan are consistent with the RMP and that there are potential RMP consistency issues with the Renaissance site which the memorandum indicates “appears to be developed” and the Dellamo site which the memorandum indicates is “under construction”. In addition, the memorandum indicates that there are potential RMP consistency issues with both Muscarelli and Kingtown regarding with the requirements of EO114 related to water deficit areas and that the Highlands opines that:

“It is our understanding that NJDEP has determined under N.J.A.C. 7:38-1.1 that it will require consistency with the RMP regarding the designation of sewer service areas, and therefore any proposed location that is inconsistent with the RMP would not be approved by NJDEP through a Wastewater Management Plan.”

As noted above, all the sites proposed in Roxbury’s plan are located in the Highlands Planning Area as established by the Highlands Water Protection and Planning Act (HWPPA), and “the fundamental distinction between the Preservation and Planning Areas is that municipal and county conformance with the Regional Master Plan is required in the Preservation Area and is voluntary in the Planning Area”. As noted above, the Township has not submitted documentation demonstrating its intent to conform to the RMP and as such is not required to conform in the Planning Area. In addition, Renaissance and Dellamo are under construction and Muscarelli has municipal approvals, county planning board approvals and NJDEP land use approvals. It should also be noted that the remaining unbuilt sites must be developed in a manner consistent with the rules or regulations of all agencies with jurisdiction over the site.

## **VI. RECOMMENDATION**

COAH staff recommends that Roxbury be granted third round substantive certification. Roxbury must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and the resolution of intent to bond or appropriate funds from general revenue and submit certified copies of the adopted ordinances to

COAH within seven days of the adoption. Roxbury must additionally submit COAH's Administrative Agent Designation Form identifying the administrative agent for existing affordable units and affirmative marketing plan within 45 days of the grant of substantive certification.

**COAH REPORT IN RESPONSE TO COMMENTS  
RECEIVED REGARDING COMPLIANCE REPORT  
ROXBURY TOWNSHIP / MORRIS COUNTY  
REGION #2  
August 7, 2009**

Adam M. Gordon, on behalf of Fair Share Housing Center (FSHC), submitted a letter dated April 23, 2009, commenting on Roxbury's Fair Share Plan during the 45-day objection period to the Township's petition. During the 14-day comment period following the receipt of Roxbury Township's Compliance Report, one comment was received: Adam M. Gordon, Fair Share Housing Center (FSHC). The comments do not alter the Compliance Report.

Fair Share Housing Center's Comments

FSHC takes issue with COAH's interpretation of the prior round exclusions regulation in the compliance report, which FSHC claims does not comply with its rules and methodology. Specifically, FSHC opposes Roxbury's application of credit for two approved, under construction, but not completed inclusionary developments, Dellamo and Willow Walk Renaissance developments to the Prior Round obligation, and the associated market rate exclusion. FSHC asserts that COAH's methodology recognized that affordable housing units that were contemplated or approved in a prior round did not mean the units would continue to address the Prior Round obligation. FSHC points out that in accordance with N.J.A.C. 5:97-1.4, credits are defined as built units. In addition FSHC states that, pursuant to N.J.A.C. 5:97-4.1(a), credits and corresponding bonuses for previous housing activity shall be applied toward the prior round obligation before the credits may be applied toward the growth share obligation. FSHC indicates that built units are first applied to the prior round obligation, in order to prevent municipalities from applying prior round rules when those are more favorable. FSHC asserts that since Dellamo and Renaissance are not completed they are eligible for credit addressing the growth share obligation, and not eligible for credit toward addressing the Prior Round obligation in accordance.

### COAH's Response

COAH's regulations allow a municipality to apply credits and corresponding bonuses for previous housing activity to the prior round obligation. COAH's rules not only allow credits for units built but also for units that are under construction. This is set forth in the June 2, 2008, New Jersey Register (Cite 40 N.J.R. 2767), which states the following comment and response:

#### **N.J.A.C. 5:97-4.1(b)**

COMMENT: This section is too restrictive. It requires new construction to have received certificates of occupancy, and rehabilitation to have final inspections before credits will be allowed. Again, COAH needs to be more flexible. If units are under construction, but no certificate of occupancy has received, or if rehabilitation has been undertaken, but final inspections not complete, municipalities should not be denied credits for prior housing activity.

RESPONSE: The Council will provide credit to units that are still under construction and rehabilitation credit when rehabilitation is currently taking place.

Therefore, the Dellamo and Willow Walk Renaissance developments that are currently under construction are eligible for credit.

Dellamo and Willow Walk Renaissance developments were included in the Township's certified second round plan to address a portion of the Township's second round new construction obligation. This second round obligation is now part of the Township's Prior Round obligation under its third round petition. Both developments resulted from a 1997 Consent Order for Final Judgment Incorporating Stipulation of Settlement and Transfer to COAH by the Honorable Reginald Stanton, A.J.S.C. As aforementioned, the two developments are not newly included in the Township's Housing Element and Fair Share Plan, as an effort to avoid its growth share obligation, but are developments that were previously included in Roxbury's second round plan to fulfill its second round obligation.

As a result, Roxbury Township is eligible to apply the credits for Dellamo and Willow Walk Renaissance developments to the Prior Round obligation and are eligible for the market rate exclusions associated with the affordable units which continue to be included in the Township's plan to address its prior round obligation.